

Application No. 10/044,368

Reply to Final Office Action dated October 1, 2004

**REMARKS**

Applicants have carefully reviewed the Final Office Action mailed October 1, 2004, regarding the above-referenced patent application. Currently claims 32-51 are pending in the application, wherein claims 32-51 have been rejected. Favorable consideration of the following remarks is respectfully requested in view of the rejection.

Claims 32-51 stand rejected under 35 U.S.C. §102(e) as being anticipated by Brady et al., U.S. Patent No. 6,565,591 (hereinafter Brady). The Examiner states that Brady discloses a filter system having each and every element of the claimed invention. Applicants respectfully traverse this rejection.

Applicants respectfully assert that Brady at least fails to teach a filter having a second tapered portion extending proximally from the base diameter of a first tapered portion. Applicants disagree with the Examiner's interpretation of specific language in Brady describing the distal end 47 of the filter body 41 and the guide olive 57. Applicants assert that the language "the guide olive 57 forms an extension of the distal end 47 of the filter body 41 and tapers distally inwardly for a smooth transition profile" does not teach a filter having a second tapered portion extending proximally from the base diameter of a first tapered portion as is claimed in the current application.

As indicated in Brady, element 47 is the distal end of the filter body 41. Therefore, any element more distal than the distal end of the filter body must necessarily not be a portion of the filter body 41. Instead, the guide olive 57 is a separate element of the device. This is apparent from the specification, which describes the guide olive 57 as "an extension of the distal end 47 of the filter body 41." Merriam Webster's Collegiate Dictionary, 10<sup>th</sup> Edition, defines "extension" as "a part constituting an addition" or "an enlargement in scope or operation <tools are ~s of human hands>." Analogizing with the example provided in the dictionary definition, just as tools are considered extensions of human hands, one would not say tools are human hands or a portion of human hands. Likewise, the guide olive 57, an extension of the filter body 41, is not a part of the filter body. Instead, the guide olive 57 is an additional element added to the protection device in order to provide a smooth transition profile. (See col. 4, lines 38-39). If this were not the case, then the device would be described as having *a distal end 47 of the filter body 41 including a guide olive 57*. However,

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the guide olive is described as an extension of the distal end of the filter body, and the reference must be taken for what it discloses.

Therefore, Applicants respectfully assert Brady fails to teach each and every limitation of the current invention. Namely, Brady fails to teach at least a filter having a second tapered portion extending proximally from the base diameter of a first tapered portion. For this reason, Applicants assert claims 32-51 are currently in condition for allowance.

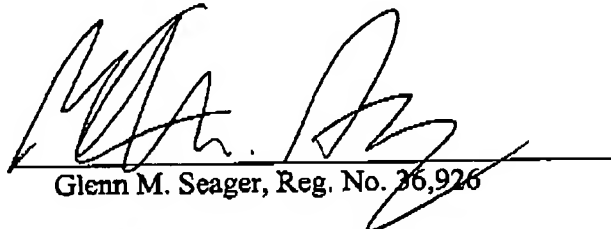
Reexamination and reconsideration are respectfully requested. Applicants respectfully assert that all pending claims, namely claims 32-51, are currently in condition for allowance. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

THOMAS BROOME et al.

By their attorney,

Date:

Nov. 24, 2004

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